



DEPARTMENT OF COMMERCE

International Trade Administration

[C-570-144]

Freight Rail Coupler Systems and Certain Components Thereof from the People's Republic of China: Final Affirmative Countervailing Duty Determination

AGENCY: Enforcement and Compliance, International Trade Administration, U.S. Department of Commerce.

SUMMARY: The Department of Commerce (Commerce) determines that countervailable subsidies are being provided to producers and exporters of freight rail coupler systems and certain components thereof (freight rail couplers) from the People's Republic of China (China) during the period of investigation January 1, 2020, through December 31, 2020.

DATES: Applicable [Insert date of publication in the *Federal Register*].

FOR FURTHER INFORMATION CONTACT: Whitley Herndon, AD/CVD Operations, Office V, Enforcement and Compliance, International Trade Administration, U.S. Department of Commerce, 1401 Constitution Avenue, NW, Washington, DC 20230; telephone: (202) 482-6274.

SUPPLEMENTARY INFORMATION:

Background

The petitioner in this investigation is the Coalition of Freight Coupler Producers. In addition to the Government of China, the mandatory respondent in this investigation is Chongqing Tongyao Transportation Equipment Co. (Chongqing Tongyao).

On March 7, 2022, Commerce published in the *Federal Register* the *Preliminary Determination* of this investigation.<sup>1</sup> The deadline for the final determination of this investigation is May 16, 2022.

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<sup>1</sup> See *Freight Rail Coupler Systems and Certain Components Thereof: Preliminary Affirmative Countervailing Duty Determination*, 87 FR 12662 (March 7, 2022) (*Preliminary Determination*), and accompanying Preliminary Decision Memorandum (PDM).

On April 11, 2022, we issued a post-preliminary decision memorandum addressing a scope issue raised in the context of this and the companion less-than-fair-value (LTFV) investigations, in which we preliminarily found that it was unnecessary to alter the scope stated in the *Initiation Notice*.<sup>2</sup> We received case briefs addressing this preliminary scope decision from two importers of subject merchandise, Strato Inc. (Strato) and Wabtec Corporation (Wabtec), on April 18, 2022,<sup>3</sup> and rebuttal comments from the petitioner on April 22, 2022.<sup>4</sup>

We received no comments or case briefs addressing any of the other findings in the *Preliminary Determination*; therefore, there is no unpublished Issues and Decision Memorandum accompanying this notice.

#### Period of Investigation

The period of investigation is January 1, 2020, through December 31, 2020.

#### Scope of the Investigation

The products covered by this investigation are freight rail coupler systems and certain components from China. For a complete description of the scope of this investigation, *see* the appendix.

#### Scope Comments

In Commerce's *Preliminary Determination*,<sup>5</sup> we set aside a period of time for parties to raise issues regarding product coverage (*i.e.*, scope) in scope case briefs or other written comments on scope issues. As noted above, the petitioner and two interested parties, Strato and Wabtec, commented on the scope of the investigation as it appeared in the *Initiation Notice*,<sup>6</sup> and Post-Preliminary Scope Decision Memorandum. For a summary of the product coverage

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<sup>2</sup> See Memorandum, "Antidumping and Countervailing Duty Investigations of Freight Rail Coupler Systems and Certain Components Thereof from the People's Republic of China: Post-Preliminary Scope Decision Memorandum," dated April 11, 2022 (Post-Preliminary Scope Decision Memorandum); *see also Freight Rail Coupler Systems and Certain Components Thereof from the People's Republic of China: Initiation of Countervailing Duty Investigation*, 86 FR 58878 (October 25, 2021) (*Initiation Notice*).

<sup>3</sup> See Strato's Letter, "Strato Scope Case Brief"; and Wabtec's Letter, "Case Brief On Post-Preliminary Scope Decision," both dated April 18, 2022.

<sup>4</sup> See Petitioner's Letter, "Rebuttal Brief," dated April 25, 2022.

<sup>5</sup> See *Preliminary Determination*, 87 FR at 12663.

<sup>6</sup> See *Initiation Notice*.

comments and rebuttal comments, and an analysis of all comments received, *see* the final scope memorandum, which will be issued prior to, or in conjunction with, the final determination in the companion LTFV investigation from China.<sup>7</sup> For the reasons discussed in the final scope memorandum, Commerce is not modifying the scope language as it appeared in the *Initiation Notice*. *See* the final “Scope of the Investigation” in the appendix to this notice.

#### Analysis of Subsidy Programs – Adverse Facts Available (AFA)

For purposes of this final determination, we relied solely on facts available pursuant to section 776 of the Tariff Act of 1930, as amended (the Act), because neither the Government of China nor the selected mandatory respondent, Chongqing Tongyao, participated in this investigation. Furthermore, as stated in our *Preliminary Determination*, CRRC Corporation Limited, CRRC Qiqihar Co., Ltd., China Railway Materials Group Co., Ltd., Shaanxi Haiduo Railway Technology Development Co., Ltd., China Railway Materials Group Co., Ltd., and Shaanxi Haiduo Railway Technology Development Co., Ltd. (collectively, non-participating companies) also withheld necessary information that was requested of them by Commerce, failed to provide information within the deadlines established, and significantly impeded this proceeding by failing to respond to Commerce’s quantity and value questionnaires. Therefore, because the mandatory respondent, the non-participating companies, and the Government of China did not cooperate to the best of their abilities in responding to our requests for information in this investigation, we drew adverse inferences in selecting from among the facts otherwise available, in accordance with sections 776(a)–(b) of the Act. Consistent with the *Preliminary Determination*,<sup>8</sup> we continue to apply AFA to determine the appropriate subsidy rates for this investigation. No interested party submitted comments on the subsidy rates selected in the *Preliminary Determination*. Thus, we made no changes to the subsidy rates for the final

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<sup>7</sup> The deadline for Commerce’s final determination in the companion LTFV investigation of freight rail coupler systems and certain components from China is May 23, 2022.

<sup>8</sup> *See Preliminary Determination* PDM at 5-16.

determination. A detailed discussion of our application of AFA is provided in the *Preliminary Determination*.<sup>9</sup>

#### All-Others Rate

As discussed in the *Preliminary Determination*, Commerce based the selection of the all-others rate on the countervailable subsidy rate established for the mandatory respondent, in accordance with section 703(d) of the Act.<sup>10</sup> Consistent with section 705(c)(5)(A)(ii) of the Act, we made no changes to the selection of the all-others rate for this final determination.

#### Final Determination

Commerce determines that the following estimated countervailable subsidy rates exist:

<b>Company</b>	<b>Subsidy Rate (<i>ad valorem</i>)</b>
Chongqing Tongyao Transportation Equipment Co.	265.99 percent
CRRC Corporation Limited	265.99 percent
CRRC Qiqihar Co., Ltd.	265.99 percent
China Railway Materials Group Co., Ltd.	265.99 percent
Shaanxi Haiduo Railway Technology Development Co., Ltd.	265.99 percent
All Others	265.99 percent

#### Disclosure

The subsidy rate calculations in the *Preliminary Determination* were based on AFA.<sup>11</sup> As noted above, there are no changes to the calculations for this final determination. Thus, no additional disclosure is necessary.

#### Continuation of Suspension of Liquidation

In accordance with section 705(c)(4)(A) of the Act, Commerce intends to instruct U.S. U.S. Customs and Border Protection (CBP) to continue to suspend the liquidation of all appropriate entries of subject merchandise, as described in the appendix of this notice, entered,

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<sup>9</sup> *Id.*

<sup>10</sup> See *Preliminary Determination*, 87 FR at 12663.

<sup>11</sup> *Id.*, 87 FR at 12662-63.

or withdrawn from warehouse, for consumption on or after March 7, 2022, which is the date of publication of the affirmative *Preliminary Determination* in the *Federal Register*, at the cash deposit rates indicated above. These suspension of liquidation instructions will remain in effect until further notice.

If the U.S. International Trade Commission (ITC) issues a final affirmative injury determination, we intend to issue a countervailing duty order, continue to require a cash deposit of estimated countervailing duties for such entries of subject merchandise in the amounts indicated above, in accordance with section 706(a) of the Act. If the ITC determines that material injury, or threat of material injury, does not exist, this proceeding will be terminated, and all estimated duties deposited as a result of the suspension of liquidation will be refunded or canceled.

#### ITC Notification

In accordance with section 705(d) of the Act, we intend to notify the ITC of our final affirmative determination that countervailable subsidies are being provided to producers and exporters of freight rail couplers from China. Because the final determination in this proceeding is affirmative, in accordance with section 705(b) of the Act, the ITC will make its final determination as to whether the domestic industry in the United States is materially injured, or threatened with material injury, by reason of imports of freight rail couplers from China no later than 45 days after our final determination.

If the ITC determines that material injury or threat of material injury does not exist, this proceeding will be terminated and all cash deposits will be refunded or canceled, as Commerce determines to be appropriate. If the ITC determines that such injury does exist, Commerce intends to issue a countervailing duty order directing CBP to assess, upon further instruction by Commerce, countervailing duties on all imports of the subject merchandise that are entered, or withdrawn from warehouse, for consumption on or after the effective date of the suspension of liquidation, as discussed above in the “Continuation of Suspension of Liquidation” section.

### Notification Regarding Administrative Protective Order (APO)

In the event that the ITC issues a final negative injury determination, this notice will serve as the only reminder to parties subject to an APO of their responsibility concerning the destruction of proprietary information disclosed under APO in accordance with 19 CFR 351.305(a)(3). Timely written notification of the return/destruction of APO materials or conversion to judicial protective order is hereby requested. Failure to comply with the regulations and terms of an APO is a violation which is subject to sanction.

### Notification to Interested Parties

This determination is issued and published pursuant to sections 705(d) and 777(i) of the Act, and 19 CFR 351.210(c).

Dated: May 16, 2022.

Lisa W. Wang,  
Assistant Secretary  
for Enforcement and Compliance.

## Appendix

### Scope of the Investigation

The scope of this investigation covers freight rail car coupler systems and certain components thereof. Freight rail car coupler systems are composed of, at minimum, four main components (knuckles, coupler bodies, coupler yokes, and follower blocks, as specified below) but may also include other items (*e.g.*, coupler locks, lock lift assemblies, knuckle pins, knuckle throwers, and rotors). The components covered by the investigation include: (1) E coupler bodies; (2) E/F coupler bodies; (3) F coupler bodies; (4) E yokes; (5) F yokes; (6) E knuckles; (7) F knuckles; (8) E type follower blocks; and (9) F type follower blocks, as set forth by the Association of American Railroads (AAR). The freight rail coupler components are included within the scope of the investigation when imported individually, or in some combination thereof, such as in the form of a coupler fit (a coupler body and knuckle assembled together), independent from a coupler system.

Subject freight rail car coupler systems and components are included within the scope whether finished or unfinished, whether imported individually or with other subject or non-subject components, whether assembled or unassembled, whether mounted or unmounted, or if joined with non-subject merchandise, such as other non-subject system parts or a completed rail car. Finishing includes, but is not limited to, arc washing, welding, grinding, shot blasting, heat treatment, machining, and assembly of various components. When a subject coupler system or subject components are mounted on or to other non-subject merchandise, such as a rail car, only the coupler system or subject components are covered by the scope.

The finished products covered by the scope of this investigation meet or exceed the AAR specifications of M-211, “Foundry and Product Approval Requirements for the Manufacture of Couplers, Coupler Yokes, Knuckles, Follower Blocks, and Coupler Parts” or AAR M-215 “Coupling Systems,” or other equivalent domestic or international standards (including any revisions to the standard(s)).

The country of origin for subject coupler systems and components, whether fully assembled, unfinished or finished, or attached to a rail car, is the country where the subject coupler components were cast or forged. Subject merchandise includes coupler components as defined above that have been further processed or further assembled, including those coupler components attached to a rail car in third countries. Further processing includes, but is not limited to, arc washing, welding, grinding, shot blasting, heat treatment, painting, coating, priming, machining, and assembly of various components. The inclusion, attachment, joining, or assembly of non-subject components with subject components or coupler systems either in the country of manufacture of the in-scope product or in a third country does not remove the subject components or coupler systems from the scope.

The coupler systems that are the subject of this investigation are currently classifiable in the Harmonized Tariff Schedule of the United States (HTSUS) statistical reporting number 8607.30.1000. Unfinished subject merchandise may also enter under HTSUS statistical reporting number 7326.90.8688. Subject merchandise attached to finished rail cars may also enter under HTSUS statistical reporting numbers 8606.10.0000, 8606.30.0000, 8606.91.0000, 8606.92.0000, 8606.99.0130, 8606.99.0160, or under subheading 9803.00.5000 if imported as an Instrument of International Traffic. These HTSUS subheadings are provided for convenience and customs purposes only; the written description of the scope of the investigation is dispositive.

